

REMARKS**I. General**

The issues raised in the Office Action mailed June 6, 2005 in the instant application are as follows:

- The Office Action reminds Applicant of the proper language and form for an abstract;
- Claims 6-8 are objected to for informalities;
- Claims 1-5 stand rejected under 35 U.S.C. § 102(b) as anticipated by Ishikura, U.S. Pat. No. 5,558,405 (hereinafter *Ishikura*);
- Claims 1-8 stand rejected under 35 U.S.C. § 102(b) as anticipated by Carter, U.S. Pat. No. 5,797,412 (hereinafter *Carter*); and
- Claims 1-8 stand rejected under the judicially created doctrine of obviousness-type double patenting.

Applicant hereby traverses the outstanding rejections of the claims, and requests reconsideration and withdrawal of the outstanding rejections in light of the amendments and remarks contained herein. Claims 1-8 remain pending in this application.

II. The Abstract

The present Office Action purports to remind Applicant of the proper language and format for an abstract of the disclosure. However, the Office Action does not point out a specific defect in the abstract. The abstract is 89 words in length and does not make use of legal phraseology, is clear and concise, and is believed to avoid using phrases that can be implied. Therefore, if the Examiner has a specific objection to the abstract, Applicant respectfully requests that such objection be pointed out in a non-final Office Action so that Applicant may have a full and fair opportunity to address it.

III. Claim Objection

Claims 6 through 8 are objected to for informalities. The Office Action suggests that various recitations of the phrase “‘L’ brackets” in claims 6 through 8 be replaced with “L-bracket.” Without conceding any defects in the claims, Applicant has amended the claims as suggested in the Office Action in the interest of expediting prosecution of the present application. Thereby, Applicant respectfully asserts that the objections to claims 6 through 8 have been overcome.

IV. Double Patenting

Claims 1-8 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Pat. No. 6,672,787. Applicant respectfully points out that the final form of the claims of the present application are not known at this time. Applicant proposes filing a terminal disclaimer or otherwise addressing the obviousness-type double patenting rejection once the final form of the claims for the present application are known and if the Examiner’s rejection still stands upon allowance of the claims in the present case.

V. Rejections under 35 U.S.C. § 102(b)

Claims 1-5 stand rejected under 35 U.S.C. § 102(b) as anticipated by *Ishikura*. Additionally, claims 1-8 are rejected under 35 U.S.C. § 102(b) as anticipated by *Carter*. Applicant respectfully traverses these rejections for the reasons advanced below.

The recited reference does not teach all claimed elements.

It is well settled that to anticipate a claim, the reference must teach every element of the claim, see M.P.E.P. § 2131. Moreover, in order for a reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he elements must be arranged as required by the claim,” see M.P.E.P. § 2131, citing *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Furthermore, in order for a reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim,” see M.P.E.P. § 2131, citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989). Applicant respectfully asserts that the rejection does not satisfy one or more of these requirements.

A. Rejection of claims 1-5 as Anticipated by *Ishikura*

Claim 1 recites “a first mount bracket rotatably attached to a first assembly” and “a second mount bracket rotatably attached to a second assembly.” The Office Action cites pole body 11 and joint components 2 and 3 as teaching the first mount bracket, and pole body 12 and retaining plate 33, as teaching the second mount bracket. Applicant respectfully asserts that neither of these groups of components are a mount bracket. *Ishikura* describes the pole bodies as making up a protective frame, see column 2, lines 22 and 23.

For at least the foregoing reasons, Applicant respectfully asserts that *Ishikura* fails to teach all elements of independent claim 1, particularly arranged as required by the claims and/or in as complete detail as recited by the claim. Therefore, independent claim 1 is patentable over the 35 U.S.C. § 102 rejection of record citing *Ishikura*. Furthermore, there are great differences between claim 1 and the art of record, and a person of ordinary skill in the art considering the prior art would not find these differences obvious.

Claims 2 through 5 each ultimately depend from base independent claim 1, and thus each of claims 2 through 5 inherits all elements of claim 1. Therefore, for at least the reasons advanced above in responding to the rejection of claim 1, each of claims 2 through 5 sets forth features and elements not disclosed by *Ishikura*. Thus, Applicant respectfully asserts that at least for the above reasons claims 2-5 are patentable over the 35 U.S.C. § 102 rejection of record.

B. Rejection of claims 1-8 as Anticipated by *Carter*

Independent claim 1 recites:

a perpendicular rigid attachment joining said first mount bracket with said second mount bracket wherein said attachment enables said first mount bracket and said second mount bracket to rotate together about a common axis.

The Office Action indicates *Carter* discloses “a perpendicular rigid attachment 136 joining said first mount bracket with said second mount bracket.” However, *Carter*, in column 6, lines 27-29, describes “bolts 136 hingedly connecting the inner ends of the link members for pivotal movement.” Therefore, Applicant respectfully asserts that bolt 136 is

not “a perpendicular rigid attachment joining said first mount bracket with said second mount bracket” as recited by claim 1.

The Office Action further indicates that *Carter* discloses “wherein said attachment enables said first mount bracket and said second mount bracket to rotate together about a common axis (bolt 136).” As discussed in column 6, lines 32-34, *Carter* indicates that bolts 136 hingedly connecting the inner ends of the link members “facilitate a moderately frictionless hinged movement of the inner ends of the link members [relative to each other] during folding and unfolding of the collapsible shelter” (bracketed clarification added). Therefore, *Carter* teaches independent rotation of link member ends about a bolt. However, *Carter* fails to teach the first mount bracket and the second mount bracket rotating together about a common axis.

For at least the foregoing reasons, Applicant respectfully asserts that *Carter* fails to teach all elements of independent claim 1, particularly arranged as required by the claims and/or in as complete detail as recited by the claim. Therefore, independent claim 1 is patentable over the 35 U.S.C. § 102 rejection of record employing *Carter*. Furthermore, there are great differences between claim 1 and *Carter*, and a person of ordinary skill in the art considering the prior art would not find these differences obvious.

Claims 2 through 8 each ultimately depend from base independent claim 1, and thus inherits all elements of claim 1. Therefore, for at least the reasons advanced above in responding to the rejection of claim 1, each of claims 2 through 8 sets forth features and elements not disclosed by *McIntyre*. Thus, Applicant respectfully asserts that at least for the above reasons claims 2-7 are patentable over the 35 U.S.C. § 102 rejection of record employing *Carter*.

VI. Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge Deposit Account No. 08-2025, under Order No. 10017979-2, from which the undersigned is authorized to draw.

The Examiner is respectfully invited to call the below listed attorney if he can be of assistance in expediting prosecution of the present application.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV482712598US, in an envelope addressed to: MS Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Date of Deposit: August 29, 2005

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Respectfully submitted,

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Date: August 29, 2005

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